

111TH CONGRESS
1ST SESSION

S. 1769

To amend the Internal Revenue Code of 1986 to allow certain coins to be acquired by individual retirement accounts and other individually directed pension plan accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 8, 2009

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow certain coins to be acquired by individual retirement accounts and other individually directed pension plan accounts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Options for Investors
5 through United States Certified Coins Act of 2009”.

1 **SEC. 2. CERTAIN COINS NOT TREATED AS COLLECTIBLES.**

2 (a) IN GENERAL.—Section 408(m) of the Internal
3 Revenue Code of 1986 (relating to exception for certain
4 coins and bullion) is amended—

5 (1) in paragraph (3)(A), by striking “or” at the
6 end of clause (iii) and by inserting after clause (iv)
7 the following new clause:

8 “(v) a coin which—

9 “(I) is certified by an inde-
10 pendent, third-party grading service,

11 “(II) is, or was at any time, legal
12 tender in the United States, and

13 “(III) is traded on a nationally
14 recognized electronic coin trading net-
15 work or listed by an independent coin
16 wholesale reporting service, or”,

17 (2) in paragraph (3)(B)—

18 (A) by inserting “in coin or bar form”
19 after “bullion”, and

20 (B) by striking “a regulated futures con-
21 tract,” and all that follows and inserting “a
22 regulated futures contract, if a trustee de-
23 scribed under subsection (a)(2) maintains—

24 “(i) physical possession of such coins
25 or bullion, or

1 “(ii) the indicia of ownership for such
 2 coins or bullion, provided physical posses-
 3 sion of such coins or bullion is held by a
 4 custodian pursuant to paragraph (4).”,
 5 and

6 (3) by adding at the end the following new
 7 paragraph:

8 “(4) USE OF CERTAIN CUSTODIANS AS
 9 AGENTS.—A trustee shall not hold the indicia of
 10 ownership of any coins or bullion described in sub-
 11 paragraph (A) or (B) of paragraph (3) in lieu of
 12 holding physical possession unless—

13 “(A) physical possession of such coins or
 14 bullion is maintained by a custodian that regu-
 15 larly engages in the business of holding bullion,
 16 coins, and precious metals, and which—

17 “(i) has held such goods during the
 18 preceding 12 months for the beneficial
 19 owner of such goods other than the custo-
 20 dian, and

21 “(ii) holds the coins or bullion as
 22 agent for the trustee,

23 “(B) the trustee remains a fiduciary and
 24 otherwise liable to the account holder to the

1 same extent such trustee would if it retained
2 the physical possession of the coins or bullion,

3 “(C) the indicia of ownership is not subject
4 to any right, charge, security interest, lien, or
5 claim of any kind in favor of the custodian in
6 possession of the coins or bullion and is freely
7 transferable by the trustee without payment of
8 money or value other than for safe custody and
9 administration, and

10 “(D) upon request by the account holder,
11 the trustee identifies to the account holder the
12 name, address, and principal place of business
13 of the custodian in possession of the coins or
14 bullion.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2009.

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